1950. File No. Lag DWR/50

Kerala DEPARTMENT

Examined 4-6 A BRANCH

Subject — Land Acquisition references from Dharwar District

1-4-51

Lag DWR/50

775 A

Subject:- Appeal against the order of the Extra Assistant Judge Dharwar under Sec.54 of the L.A.Act.

.....

Letter

No.L.Q.C.S.R. 610
Dharwar. 17-11-50

L. Q. 20 NOV 1950

To

The Remembrancer of Legal Affairs,
Legal Department,
Secretariat,
Bombay.

22093 21-11-50

In submitting herewith a copy of the District Government Pleader's letter No.1141 dated 2nd November 1950(with its accompaniments) in connection with the order dated 25th October 1950 passed by the Extra Assistant Judge Dharwar, I have to state as under:-

2. In this case, R.S.No.147/1 of Byadgi measuring 5 acres, 19 guntas assessed at Rs.8-10-0 was acquired on behalf of the Byadgi Municipality for the burial ground of the Muslims of Byadgi. The Government notification under sec.4 of the L.A.Q.Act was issued on 11.3.47. The Land Acquisition Officer awarded the price of the land At Rs.400/- per acre on the basis of the prevailing prices as reported by the Mamlatdar. Against this award passed by the A.O. on 6.8.48, one Shri Muppanna Murigeppa alias Puttappa Ullagaddi minor by his guardian mother Savakka Ullagaddi of Byadgi (the owner of the said land) preferred an application under sec.18 of the L.A.Q.Act and the application was disposed of by the Extra Assistant Judge Dharwar on 25.10.50.

3. The Extra Assistant Judge in his order referred to above has fixed the land value at Rs.850/- per acre on the basis of the evidence produced before the court. The District Government Pleader states that the price fixed by the Extra Assistant Judge seems to be fair and reasonable, and that the order need not be challenged on this ground. The District Government Pleader however prefers to file an appeal against the order of the Extra Assistant Judge on the ground that the Judge has passed an order contrary to the statutory provisions of sec.25(2) of the L.A.Act and that the Judge has himself made out a new case for the applicant without the applicant putting forth sufficient reasons for not preferring any claim under sec.9 of the L.A.Act. I agree with the District Government Pleader.

4. I would therefore request you to move Government to accord necessary sanction for the filing of an appeal in the High Court, under sec.54 of the L.A.Act. Certified copies of the Judgment and Decree and the papers of the case will be sent to the Government Pleader, High Court, Bombay in due course.

o.c.signed
by Collector

bb

for Collector of Dharwar

Copy with a copy of the District Government Pleader's letter f.w.cs. to the Government Pleader High Court, Bombay, for information and necessary action.

Copy f.w.cs. to the District Government Pleader Dharwar with a request to supply the certified copies at an early da

Copy of Dist.Govt.Pleader's letter No.1141 dated 2.11.50 addressed to the Collector of Dharwar.

Sub:- Acquisition of land for Burial Ground for Muslims at Byadgi.

Ref:- P.O.Haveri's Award No.L.A.Q.S.R.202/48.
Collector's No.L.Q.C.S.R.610 of 15.2.1950.

"I have the honour to ~~me~~ inform you that the Land Acquisition Case, Misc. No.32 of 1949 was decided by the Extra Assistant Judge, Dharwar, on 25th October 1950. The order of the Judge is as follows:-

"The applicant is entitled to get the price of her land measuring 5 acres, 19 guntas, at Rs.850/- per acre

2. He is entitled to get Rs.150/- on account of the bund.

3. He is entitled to get Rs.150/- on account of the mango trees. The statutory solatium will increase in proportion.

4. He should recover the costs of this proceeding from the other side in proportion to his success in this Court."

2. The Land Acquisition Officer had fixed the price of the land at Rs.400/- per acre without considering the sales that took place at Byadgi in 1946 and 1947. He ought to have considered the sale transactions during these two years as the Government Notification under section 4 of the Land Acquisition Act was issued on 11.3.1947. The Land Acquisition Officer instead took into consideration the sales that took place on 1941, 1942 and 1943 only. I have obtained a statement of 35 sales during 1945 1946 and 1947 and from that statement it may be seen that the price fixed by the Court seems to be fair and reasonable and the same need not be challanged and his decision may be acquiced in so far as that.

3. However, I should like to recommend an appeal for this reason:- In my opinion, the Court was wrong in deciding the objection based on section 25 of the Land Acquisition Act against Government. Section 25(2) provides that if the applicant has refused to make such claim or has omitted, without sufficient reason (to be allowed to by the Judge), to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector (12 C.W.N.263; I.L.R.33 All.376). It may be noted that no cause was shown by the applicant either in the application under section 18 or in her deposition (Exh.27) why she omitted to put forth her claim after the receipt of Notice under section 9 of the Act. The Judge cannot allow the reason to be sufficient unless it was put forth by the party itself. In this case, no reason sufficient or otherwise has been put forth by the applicant why she omitted to make such claim on receipt of Notice under section 9 of the Act. The Judge has himself made out a new case for the applicant under section 25(2) of the Act by holding that there was sufficient reasons for omitting to put forth the claim after the receipt of Notice under section 9 of the Act.

4. You are therefore requested to move the Government for according sanction for filing an appeal in the High Court ~~for~~ from the order of the Extra Assistant Judge Dharwar, as the Extra Assistant Judge failed to dismiss the application under section 25(2) of the Act.

5. An uncertified copy of judgement and statement of Sales during 1945. 1946 and 1947 are sent herewith, for

perusal. Certified copies of judgement and decree and the case papers will be sent in due course."

.....

5 5

22093/21-11-50.

Subra.

This is in connection with the decision of the Extra Asstt. Judge, Dharwar, dated 25/X/1950 in Misc. Ref. No. 32 of 1949. In this case land measuring 5 acres, 19 gunthas out of R.S. No. 147/1 of Byadgi was acquired on behalf of the Byadgi Municipality for the purpose of a burial ground for the Muslims. The Acquisition Officer awarded compensation at the rate of Rs. 400/- per acre. The Assistant Judge, Dharwar, however has awarded compensation at the rate of Rs.850/- per acre plus Rs. 150/- each on account of a bund and a mango tree in the land. The D.G.P., Dharwar considers that the rate of Rs. 850/- per acre awarded by the Court is fair and reasonable. He however recommends the filing of an appeal on the ground that the claimant had failed to make a claim to compensation in pursuance of the notice issued by the Acquisition Officer under section 9 of the Land Acquisition Act, 1894. The Collector of Dharwar agrees with the D.G.P. in the course of action suggested by him. The question is whether the case is a fit ~~are~~ one for filing an appeal to the High Court.

2. The objection raised by the D.G.P., Dharwar, is based on sub-section (2) of section 25 of the Land Acquisition Act, 1894. Under that subsection if the applicant has omitted without sufficient reason (to be allowed by the Judge) to make a claim to compensation ~~and~~ [E] pursuant to any notice given under section 9, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector. Attention is also invited to sub-section (3) of section 25 which provides that when the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collecto

It would be seen that in both the circumstances what is a "sufficient reason" is left to be decided by the Court. It is the duty of the District Judge to apply his mind to the consideration of the question as to whether the failure of the claimant to specify the amount of his claim was with or without sufficient cause and whether he would be prepared to condone such omission (Vide Agarwal's Land Acquisition, p. 382). In this case this point has been dealt with by the Assistant Judge in para.9 of his judgment. The applicant was a minor and his guardian mother by whom the application was filed was an illiterate woman. The Assistant Judge thought that the illiterate mother might not have attached proper importance to the notice issued under section 9 by the Acquisition Officer and might have ignored it through ignorance. He therefore thought that there was sufficient reason for allowing the applicant to put forth his claim. From the judgment it also appears that the applicant had mentioned in the application that because of his minority he could not put in the objections within the prescribed time. The objection raised by the D.G.P. and supported by the Collector does not therefore appear to have much force and it does not seem worthwhile prefering an appeal in the High Court against the Judgment of the Asstistant Judge only on this ground, especially as the revised rate of compensation awarded by the Judge is considered to be fair and reasonable. As however the land in this case was acquired on behalf of the Byadgi Municipality, it is for consideration whether an enquiry may, in the the first place, be made of the Collector whether the Municipality is keen on filing an appeal. | A

P
3.11

R.R. I agree. A may be done

RK 23/11

R.L.A. 23/11

No. 16537 7 2

Office of the
Remembrancer of Legal Affairs,
Bombay Castle (Bombay No.1), 24th November 1950.

To

The Collector of Dharwar.

Subject:- Misc. Application No. 32 of 1949 in the Court of the Extra Assistant Judge, Dharwar.

Sir,

With reference to your letter No. L.Q.C.S.R. 610, dated the 17th November 1950, proposing that an appeal should be filed in the High Court against the decision of the Extra Assistant Judge, Dharwar, dated the 25th October 1950 in the above matter, I am to enquire whether as the land in question was acquired on behalf of the Byadgi Municipality, the Municipality is keen on filing an appeal. An early reply is requested.

Yours faithfully,

Issued
Law
24/11
Subd. for appeal. sign. RK

BM.
24.11.

for Remembrancer of Legal Affairs.

await Collapse
till 1/12/5°

L. D.
12 DEC 1950

Subject:- Appeal against the order of the Extra Assistant Judge, Dharwar under Section 54 of the L.A.Act.

No.L.Q.C.S.R.610.
Dharwar, 9-12-1950.

Letter.
To

The Rememberancer of Legal Affairs,
Legal Department, Secretariat, Bombay.

Reference:-Your No.16537 dated 24th November 1950 and subsequent reminder of even No. dated 5th December 1950.

The Administrator of the Byadgi Municipality on whose behalf the land in question was acquired has expressed his keen-ness to file an appeal in the High Court against the decision of the Extra Assistant Judge, Dharwar.

2. I therefore request you to move Govt. to accord - necessary sanction for the filing of an appeal as previously reported under this office No.L.Q.C.S.R.-610 dated 17-11-1950. The certified copies of the Judgment and Decree and an uncertified copy of the Decree and the original papers of the case have this day been forwarded to Government Pleader, - High Court Bombay for taking necessary further action in the matter.

for Collector, Dharwar.

ak

24599
13-12-50

Subsc. with ref. to office note at pp. 5 & ante wherein it is suggested that the case is not a strong one for preferring an appeal in the High Court. The Collector of Dharwar however states that the Municipality of Byadgi on whose behalf the land was acquired is keen on filing an appeal. An appeal may therefore be filed as proposed by the local Officers. Forwarded.

13.12

A.C.R. 13/12.

R.L.A. 13/12

Limitation expires on 24 Jan. 1951

Land Acquisition
Dharwar.

GOVERNMENT OF BOMBAY,
Legal Department,
Resolution No. 17906
Bombay Castle, 19th December, 1950.

Letter from the Collector of Dharwar, No.L.Q.C.S.R. 610, dated 17-11-1950, forwarding papers in the Reference noted in the margin and requesting that an appeal may be filed in the High Court, Bombay, against the decision of the Extra Assistant Judge, Dharwar. dated the 25th October, 1950.

In the Court of the Extra Assistant Judge, Dharwar

Miscellaneous No.32 of 1949

Muppanna Murigeppa alias Puttappa Ullagaddi, minor by his guardian mother Sevakka Kam Murigeppa alias Puttappa Ullaguddi .... Applicant
versus
The Collector of Dharwar .. Opponent

Letter to the Collector of Dharwar, No.16537, dated 24-11-1950.

Letter from the Collector of Dharwar, No.L.Q.C.S.R. 610, dated 9-12-1950.

RESOLUTION :- The institution of an appeal in the High Court, Bombay, against the decision of the Extra Assistant Judge, Dharwar, dated the 25th October, 1950 in the Reference noted in the margin is sanctioned.

By order of the Governor of Bombay,

(R. T. Katarki)
Assistant Remembrancer of Legal Affairs.

To
The Revenue Department,
The Collector of Dharwar,
The Government Pleader, High Court, Bombay
(with the papers received from the Collector).

Head Constable

Assistant Commissioner of Police, [illegible]

To

The Collector of Jabalpur,
The Treasure Department,
Civil Lines, Jabalpur, dated the 3-12-1930.

Sir,

By order of the Chairman of Jabalpur Municipality, I am directed to forward herewith a receipt for Rs. 50 (Rupees fifty only) being the donation of the Jabalpur Municipality towards the Police Welfare Fund, and to request that the same may be credited to the Municipality's account.

I have the honour to be,
Sir,
Your most obedient servant,
Secretary, Municipality, Jabalpur.

Dated 14-12-1930.

Letter from the Collector of Jabalpur, No. 1644/X, dated 15-12-1930, forwarding receipt for Rs. 50 received from the Municipality.

From	The Collector of Jabalpur,
To	The Secretary, Municipality, Jabalpur.
Memo No.	1644/X, dated 15-12-1930.
Subject	Donation of Rs. 50 for Police Welfare Fund.
Enclosure	One receipt.

Please find enclosed herewith the receipt for Rs. 50 (Rupees fifty only) received from the Municipality, Jabalpur, as donation for the Police Welfare Fund.

Please acknowledge receipt.

Collector, Jabalpur.

Leg Dharwar 50

13 45

No. 1064

Office of the Government Pleader, High Court.

Bombay, 16th February 19 51.

From

Shri H.M.Choksi, B.A.(Hons.) LL.B.,
~~S.G.Patwardhan, Esq. B.A. B.Sc. LL.M.~~

Government Pleader, High Court, BOMBAY.

To

The Collector of Dharwar.

Subject First Appeal No. 96 of 1951 in Civil Misc.Appln. No. 32 of 1949. The Collector of Dharwar Vs. Muppanna Murigeppa @ Puttappa Ullagaddi.

SIR,

With reference to Government Resolution Legal Department No. 17906 dated the 19-12-1950, on the above subject, I have the honour to invite reference to Rule 134 (2) of the Law Officers' Rules and to request you to direct the District Government Pleader who may have conducted the case, referred to above in the Court below, to inform me the numbers of important exhibits which will have to be relied upon in support of the case on behalf of Government at the time of its hearing in the High Court as those exhibits which are in vernacular will have to be translated for the use of the Court and those that are in English will have to be incorporated in the paper books which will be prepared for the use of their Lordships. The appeal has been admitted on 15th February 1951.

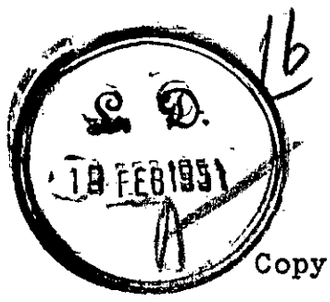
2. Certified copy of the notice given by the plaintiff to the Secretary of State under Section 80 C. P. Code should be sent to me at an early date.

3. I shall also thank you to send to me four copies of the plan showing the exact position of the land acquired in relation to its surrounding situation and the several instances of sale relied on in the Lower Court.

I have the honour to be,
SIR,
Your most obedient servant,

Sd. B.G.Thakor.

for *Government Pleader, High Court.*



No. 1065
Bombay. 16th February 1951.

Copy forwarded with compliments to the Remembrancer of Legal Affairs, Bombay for information.

for Government Pleader, High Court.

3537
20-2-51

Subd. with T.P. information
No action is necessary. This
L.A.D. Dhanwar/50
D
21-2
H.R.R. V.K. 21/2

Leg. Dept.

15

Judgment recorded by the High Court in First Appeal No. 96 of 1951 in the case of Collector of Dharwar V/S Muppanna Murigappa @ Puttappa Ullagaddi.

Shri V.S.Desai Asstt. Government Pleader for the Appellant.
Shri N.M.Hungund Advocate for the Respondent.

===

Coram: Gajendragadkar & Shah JJ.
10/11/1954.

ORAL JUDGMENT (PER GAJENDRAGADKAR J):=

This appeal arises from land acquisition proceedings. The property in question S.No. 147/1. It is situated at village byadgi in the taluka of Ranebennur. It admeasures 5 acres 19 gunthas and is assessed at Rs. 8-10-0. The notification under Sec. 4 was issued on the 11th March 1947 and the award was made on the 6th August 1948. By the award the claimant has been allowed Rs. 2524-4-0 by way of compensation. This amount has been determined on the basis that the value of the property would be Rs. 400 per acre. It appears that before the officer no claim was made by the claimant. After the award was published, however, a reference was made to the learned Assistant Judge and a claim for Rs .6500 was pleaded before him. The learned judge has awarded Rs. 4653-12-0 for the land on the basis of Rs. 850/- per acre being the rate. He has also awarded Rs.150 for the bund and Rs. 150 for the mango trees. In the result an additional amount of Rs. 2925 has been awarded to the claimant. It is this amount which is the subject-matter of the present appeal by the State.

The first point which Mr. Desai has raised before us is that the learned Judge below should not have entertained the claim made before him on reference since the claimant had not put forward his claim during the acquisition proceedings. Mr.Desai relies upon the provisions of Sec. 25(1) in support

in support of this contention. Under Sec. 25(3), however, if the learned Judge before whom the reference is heard is satisfied that the failure of the claimant to put forward a claim in acquisition proceedings was for a sufficient reason it is open to him to record that conclusion and to condone the failure on the part of the claimant to make a claim in acquisition proceedings. That is what the learned judge has done in the present case. We do not think that Mr. Desai is entitled seriously to urge this point before us in appeal since the discretion which has been vested in the learned Judge below has been duly exercised by him. The learned Judge thought that since the owner of the property at the material time was a minor and his interests were being looked after by the ignorant widow, his mother, for her failure to make a claim on behalf of the minor/ ~~for her failure~~ the minor need not be punished. We cannot say that the discretion exercised by the learned Judge for this reason has not been judicially exercised. Therefore, we do not propose to uphold the objection raised by Mr. Desai under section 25 of the Act.

Then, as to the valuation of the property, it seems to us that the learned Judge was obviously right in adopting the rate of Rs. 850 per acre in respect of the property which is the subject matter of the acquisition proceedings. There are three transactions which are deposed to by Bashetteppa. Bashetteppa is the Managing Director of the Housing Society at Byadgi. On the 23rd August 1948 on behalf of the Society Bashetteppa purchased S.No.304/2. The price paid under this document works at the rate of Rs. 800 per acre. Bashetteppa paid Rs. 1260 for 1 acre 23 gunthas. On the 25th August 1947 Bashetteppa purchased for the Society S.No. 43/A for Rs. 640/-. The property admeasures 32 gunthas. The price works at the rate of Rs. 800. Similarly, the transaction which took place in respect of S.No. 43/B on the 25th August 1947 also works out at the rate of Rs. 800 per acre. As the learned Judge has pointed out, acting as the Managing Director of the Housing Society if Bashetteppa paid at the rate of Rs. 800

per acre, it would not at all be unreasonable to hold that at the material time this was the rate which was reasonable. Therefore, we cannot hold that the learned Judge was in error in increasing the amount due to be paid to the claimant in respect of the land.

Mr. Desai has then contended that the learned Judge was in error in allowing Rs. 150 for the bound built by the claimant on this land. This is a small claim, but it has to be allowed. It does appear even on the finding of the learned Judge that this bund was built just about the time when the award was published. In other words, this is a structure raised after the notification was issued and clearly no compensation can be claimed for such a structure. Therefore, the amount awarded by the learned Judge will be reduced by Rs. 150.

The result is, but for the slight modification just indicated, the order passed by the learned Judge is confirmed and the appeal is dismissed with costs.

--X--

No. 3384.

21 57

	Rs. as. ps.	
Typing and comparing charges	3 - 0 - 0 (Fol.8)	Typed by Mr. R.I.Africawala
Paper charges	0 - 0 - 6	Examined by Mr. [illegible]
Total Rs.	3 - 0 - 6	Read by Mr. [illegible]

Rupees three and pies six only.

Superintendent, D.D.,
28-1-1955.

Copy applied for on 29-12-54
Copy ready on 29 JAN 1955
Copy delivered on 9-5-55
Sent by [illegible] Post on
Assistant Superintendent 9/5

Appeal No. 96 of 1951 from Original Decree.

(Under Land Acquisition Act).

The Collector of Dharwar.
(Original Defendant). ... ... Appellant;

Vs.

Muppanna Murigeppa alias Puttappa Ullagaddi.
(Original Plaintiff). ... ... Respondent.

Appeal against the decision of M.S.Parulekar, Esquire, Extra Assistant Judge, at Dharwar in Misc. Application No.32 of 1949.

Mr. V.S.Desai, Assistant Govt. Pleader for the Govt. Pleader for the Appellant.

Mr. N.M.Hungund, Advocate for the Respondent.

Coram:- Gajendragadkar & Shah, JJ.

10th November 1954.

Oral Judgment:-(Per Gajendragadkar, J.):-

This appeal arises from land acquisition proceedings. The property in question is S.No.147/1. It is situated at village Byadgi in the taluka of Ranebennur. It admeasures 5 acres 19 gunthas and is assessed at Rs. 8-10-0. The notification under sec.4 was issued on the 11th March 1947 and the award was made on the 6th August 1948. By the award the claimant has been allowed Rs.2524-4-0 by way of compensation. This amount has been determined on the basis that the value of the property

would be Rs.400 per acre. It appears that before the officer no claim was made by the claiment. After the award was published, however, a reference was made to the learned Assistant Judge and a claim for Rs.6500 was pleaded before him. The learned Judge has awarded Rs.4653-12-0 for the land on the basis of Rs.850/- per acre being the rate. He has also awarded Rs.150 for the bund and Rs.150 for the mango trees. In the result an additional amount of Rs.2925 has been awarded to the claimant. It is this amount which is the subject-matter of the present appeal by the State.

The first point which Mr.Desai has raised before us is that the learned Judge below should not have entertained the claim made before him on reference since the claimant had not put forward his claim during the acquisition proceedings. Mr. - Desai relies upon the provisions of sec.25(2), in support of this contention. Under sec.25(3), however, if the learned Judge before whom the reference is heard is satisfied that the failure of the claimant to put forward a claim in acquisition proceedings was for a sufficient reason it is open to him to record that conclusion and to condone the failure on the part of the claimant to make a claim in acquisition proceedings. That is what the learned Judge has done in the present case.We do not think that Mr.Desai is entitled seriously to urge this point before us in appeal since the discretion which has been vested in the learned Judge below has been duly excercised by him. The learned Judge thought that since the owner of the property at the material time was a minor and his interests were being looked after by the ignorant widow, his mother, for her failure to make a claim on behalf of the minor the minor need not be punished. We cannot say that the discretion exercised by the learned Judge for this reason has not been judicially exercised. Therefore, we do not propose to uphold the objection raised by Mr.Desai under sec.25 of the Act.

Then, as to the valuation of the property, it seems to us that the learned Judge was obviously right in adopting the rate of Rs.850 per acre in respect of the property which is the

23

subject matter of the acquistion proceedings. There are three transactions which are deposed to by Bashetteppa. Bashetteppa is the Managing Director of the Housing Society at Byadgi. On the 23rd August 1948 on behalf of the Society Bashetteppa purchased S.No.304/2. The ~~price~~ paid under this document works at the rate of Rs.800 per acre. Bashetteppa paid Rs.1260 for 1 acre 23 gunthas. On the 25th August 1947 Bashetteppa purchase for the Society S.No.43/A for Rs.640. The property admeasures 32 gunthas. The price works at the rate Rs.800. Similarly, the transaction which took plade in respect of S.No.43/B on the 25t August 1947 also works out at the rate of Rs.800 per acre. As the le-arned Judge has pointed out, acting as the Managing Director of the Housing Society if Bashetteppa paid at the rate of Rs.800 per acre, it would not at all be unreasonable t hold that at the material time this was the rate which was reasonable. Therefore, we cannot hold that the learned Judge wa in error in increasing the amount due to be paid to the claiman in respect of the land.

Mr.Desai has then contended that the learned Judge was in error in allowing Rs.150 for the bund built by the claiman on this land. This is a small claim, but it has to be allowed. It does appear even on the finding of the learned Judge that this bund was built just about the time when the award was published. In other words, this is a structure raised after the notification was issued and clearly no compensation can be claimed for such a structure. Therefore, the amount awarded by the learned Judge will be reduced by Rs. 150.

The result is, but for the slight modification just indicated, the order passed by the learned Judge is confirmed and the appeal is dismissed with costs.

By order of the Court,
Sd./-, V. R. Gadkari.
Deputy Registrar.

True copy,
29/1
For Deputy Registrar.
The 28/1/ day of January 1955,.

No. 3324.

25 52

	Rs. as. ps.	
Typing and comparing charges	3 -12 - 0 (Fol.10)	Typed by Mr. R.I.Africawala
Paper charges	0 - 0 - 6	Examined by Mr. D.T.Pal
Total Rs.	3 -12 - 6	Read by Mr. S.D.Pandit

Rupees three annas twelve and pies six only.

Superintendent, D.D.,

28-1-1955.

Copy applied for on 29-12-54
Copy ready on 29 JAN 1955
Copy delivered on 9-5-55
Sent by V.P.P. R.P. Post on
Assistant Superintendent. 9/5

In the High Court of Judicature at Bombay.

Wednesday the 10th day of November 1954.

Appeal No.96 of 1951 from Original Decree.

(Under land Acquisition Act)

The Collector of Dharwar.

(Original Defendant). ... . Appellant;

Vs.

Muppanna Murigeppa alias Puttappa Ullagaddi, ~~minor by his guardian mother Savakka kom Murigeppa alias Puttappa Ullagaddi~~ now major. *

residing at Byadgi, taluka Ranebennur. * amended as per Court's order on C.A. 1445/51. dt. 16-11-51.

(Original Plaintiff) ... ... Respondent.

Claim:- Rs. 2,925-0-0 for all purposes.

The applicant applied under Section 18(1) of the Land Acquisition Act, 1894, claiming Rs. 6,500.

Exhibit 42 in Misc. Application No.32 of 1949 was heard by the Extra Assistant Judge of Dharwar who granted the applic-ion with costs as detailed in the judgment.

An appeal has been admitted in the High Court from the decision of the lower Court. Notice was ordered to issue by the Honourable Mr. Justice Bavdekar on the 15th day of February 1951

The grounds of objection to the decision appealed against are:-

1. That the decision of the learned Extra Assistant Judge is erroneous in law and against the weight of evidence.

2. That the learned Extra Assistant Judge should have held

that it was not open to him to entertain any objections to the award, dated 6th August 1948, in view of the fact that no objections were put in by the Respondent after the notices under Section 9 of the Act were issued.

3. That it ought to have been held that the present claim of the Respondent was not tenable becuase the claims were not put in by the Applicant after the service of requisite notices.

4. That the learned Extra Assistant Judge has failed to appreciate the true import of Section 25 of the Land Acquisition Act.

5. That the view of the learned Judge that merely because the Applicant is minor and his mother is illiterate, therefore, the Applicant has sufficient reason to omit put forth his claim is erroneous.

6. That Section 25, Sub-Clause 2, of the Land Acquisition Act is misconstrued and its legal effect is misunderstood.

7. That the learned Judge erred in accepting the evidence of the witnesses led on behalf of the Respondent and in holding that the land was worth Rs.850 per acre in March 1947.

8. It was an error to have awarded Rs.200 as costs for the Bund put on the land.

9. That the lower Court erred in fixing the price of the Mango-trees at Rs.150.

10. That the order as to costs is also erroneous.

11. That the decision is even otherwise erroneous.

12. That the Appellant craves leave to add, to alter or vary the grounds after the record is received.

And for this act of kindness the Appellant shall as in duty bound ever pray.

Explanation of the Claim.

	Rs. as. ps.	
5 acres and 19 gunthas at Rs.850 per acre.	4,653 -12 - 0	Ordered by Judge.
	-2,119 - 0 - 0	Awarded by the Land Acquisition Officer.
	2,534 -12 - 0	
plus	150-0 -0	for bund.

		Rs.as.ps.
Rs. 150 for mango ~~xxx~~ trees ordered by the Judge less Rs.5 awarded by the Land Acquisition Officer = Rs. 145.	plus	145-0 - 0 For mango-trees
		2,829 -12 - 0
15 per dent on Rs. 2,829-12-0	plus	424 - 8 - 0 Statutory Solatium.
		3,254 - 4 - 0
		-329 - 4 - 0 Statutory Solatium already given.
		2,925 - 0 - 0 Claim for the present appeal.

Coram:- Gajendragadkar, ~~&~~.Shah, JJ.

For the reasons stated in the accompanying Judgment, the Court modifies the order passed by the lower Court by reducing the amount awarded by it by Rs.150/-. Subject to this modification the rest of the order is confirmed and the appeal is dismissed with costs.

10-11-1954.

Sd./- V. R. Gadkari.
Deputy Registrar.

HIGH COURT APPELLATE SIDE BOMBAY CERTIFIED COPY

Bill of Costs in the High Court,

By the Appellant.		Rs. as. ps.
Stamps for Memo. of ~~Appxxxx~~ Appeal.		218 - 12 - 0
Stamps for copies of Decree and Judgment.		1 -14 - 0
Stamps for Vakalatnama. (G.P.appeared)		0 - 0 - 0
Stamps for applications to showing Respondent as major.		5 - 0 - 0
~~xxxx~~ Bhatta for Process.		7 - 8 - 0
Sectioner's Fee.		9 -14 - 0
Advocate's Fee.		127 -12 - 0
	S.C.	31 -15 - 0
Printing charges.		11 - 0 - 0
Copying charges for preparing paper-books.		6 - 3 - 0
		xxxxxxxxxxxxxxxx
	~~Txxxxxx~~.	
Translation fee.		8 - 8 - 0
Copying fee under Rule 125 of the High Court, Appellate Side Rules, 1950.		8 - 8 - 0
	Total Rs.	436 -14 - 0

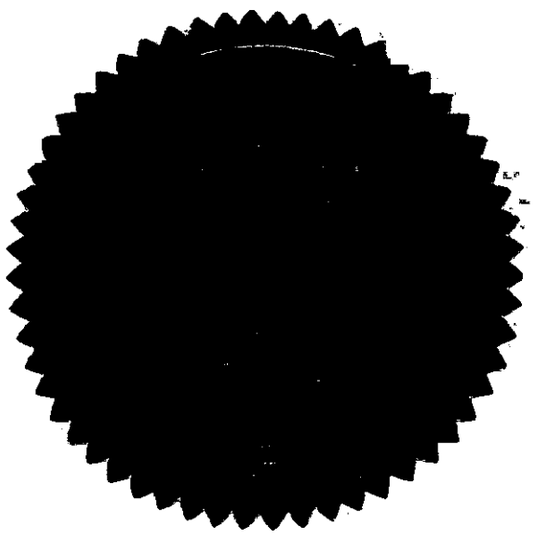
By the Respondent.	Rs. as. ps.
Stamps for Vakalatnama.	5 - 0 - 0
Advocate's Fee.	127 -12 - 0
Sur-charge .	31 -15 - 0
Total Rs.	164 -11 - 0

(Seal)

Sd./ - V.R.Gadkari.

Deputy Registrar.

The 10th day of November 1954.



True copy,

For Deputy Registrar.

The 28/1/ day of January 1955.

Suits:
Dharwar.

Land Acquisition.

GOVERNMENT OF BOMBAY.
Legal Department,
Resolution No. 10980/E
Bombay, 16th May 1955.

Read Government Resolution, Legal Department, No. 17906, dated the 19th December 1950.

Letter from the Government Pleader, High Court, Bombay No.9726, dated the 16th November 1954, stating that the Appeal No.96 of 1951 in the reference noted in the margin was decided by the High Court, Bombay on the 10th November 1954, when the following order was passed:-

In the Court of the Extra Assistant Judge, Dharwar.	
Miscellaneous No. 32 of 1949.	
Muppanna Murigeppa alias Puttappa Ullagaddi, minor by his guardian mother Sevakka Kom Murigeppa alias Puttappa Ullaguddi.....	Applicant.
vs.	
The Collector of Dharwar...	Opponent.

"Appeal dismissed with costs except with a slight modification as to the compensation for the land which is disallowed."

Letter from the Government Pleader, High Court, Bombay, No.10109 dated the 24th November 1954, forwarding uncertified copies of the judgment.

RESOLUTION: The result of the appeal is recorded.

By order and in the name of the
Governor of Bombay,

D.P. SHIKHARE
Deputy Secretary to Government.

Original

To
The Revenue Department,
The Collector of Dharwar,
The Government Pleader, High Court, Bombay,
The District Government Pleader, Dharwar.

hsp/21/5

Submitted for Signature.

D.S. (civil)

Submitted after cross

2.) Fikrin Lab Dwr 1/50

29/5

Submitted 29/5

Lab. Dwr 1/50

29/5/53